

CERTIFIED TRANSLATION

ACT 144-2020

GOVERNMENT OF PUERTO RICO
SENATE OF PUERTO RICO
THE CAPITOL
SAN JUAN, PUERTO RICO 00901

I, **Manuel A. Torres Nieves**, Secretary of the Senate of Puerto Rico,

CERTIFY:

That the **P of the S. 923**, titled:

“ACT

To establish the “ Act to Unify the Duties of the Public Order Agents in Puerto Rico in the event of an Emergency or Disaster”, in order to define public order agents and clearly establish which officers are considered public order agents for purposes of this Act; authorize the Governor to activate the public order agents facing an emergency or disaster; establish the powers and faculties of the public order agents activated pursuant to this Act; provide for the unification of the main components of public safety facing a declaration of emergency or disaster; provide for a Peace Officers Corps; and for other purposes.”

has been approved by the Senate of Puerto Rico and House of Representatives in the way stated in the copy attached.

WHEREFORE, and to notify the Governor of Puerto Rico, I issue this document in my office in the Capitol, San Juan, Puerto Rico, on September five (5) of the year two thousand twenty and stamp the Seal of the Senate of Puerto Rico.

[signed]

Manuel A. Torres Nieves
Secretary of the Senate

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(P. of the S. 923)**ACT**

To establish the “ Act to Unify the Duties of the Public Order Agents in Puerto Rico in the event of a Declaration of Emergency or Disaster”, in order to define public order agents and clearly establish which officers are considered public order agents for purposes of this Act; authorize the Governor to activate the public order agents upon an emergency or disaster; establish the powers and faculties of the public order agents activated pursuant to this Act; provide for the unification of the main components of public safety upon a declaration of emergency or disaster; provide for a Peace Corps; and for other purposes.

STATEMENT OF MOTIVES

In Puerto Rico there are various agencies that make arrests for violations to legal statutes, which, in emergency or disaster situations, must be given broader faculties. This, with the objective of giving them a power to ensure the order and the citizens’ safety. This power that the Government gives would be assigned to these public order agents in order to aid the Police and the security agencies, in the patrolling, protection, rescue, surveillance and other duties, as the State deems and is necessary. This would allow greater resources of personnel, vehicles, and equipment to safeguard public safety in emergency situations. For that, it is necessary to define the concept of “public order agent” and clarify which personnel would be considered included under this concept.

Presently, there are various legal provisions that define the concept of “public order agent”. Among them, Act 168-2019, known as the “Arms Act of Puerto Rico of 2020”, Act 22-2000, as amended, known as the “Vehicles and Transit Act”, Act 430-2000, as amended, known as the “Navigation and Water Safety Act of Puerto Rico”, the Rules of Criminal Procedure of Puerto Rico of 1963 as amended, that define the term “public order officers”, and now in Act 20-2017, as amended, known as the “Public Safety Department Act of Puerto Rico” that defines the concept of “agents of the Police Bureau of Puerto Rico”.

It is necessary to group the agents of public order so that during a declaration of emergency or disaster, issued by the Government of Puerto Rico, they can collaborate in unison, with them being a necessary human capital to guarantee the governability, the public order and the proper institutional operation, the coordination and harmony of the public and private institutions.

During the month of September 2017, Puerto Rico received the impact of two powerful hurricanes. On September 6, 2017, hurricane Irma, a category 5 hurricane, affected great part of the northeast of Puerto Rico, including the municipality islands of Vieques and Culebra. After this atmospheric phenomenon, and while we were finishing dealing with the effects of hurricane Irma, on September 20, 2017, all of Puerto Rico suffered the catastrophic effects of hurricane Maria, where over one million residents of Puerto Rico were without electric power. In fact, hurricane Maria, a devastating category 4 hurricane, not only affected the electric power infrastructure, but



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the telecommunications infrastructure was also severely affected, remaining inoperant to the degree of establishing a precedent of destruction that had never been seen before in the modern history of Puerto Rico.

Just after it was hit by the hurricane, Puerto Rico was totally left without communication, as the telecommunications depend on the electric power. During the critical lives rescue stage, the first response workers and the Puerto Rico Police could not communicate. Also, the Federal Emergencies Management Agency (FEMA) could not communicate. Not even the National Guard had communications systems.

Even, the passing of hurricane Maria affected the safety plans of the Puerto Rico Police which priorities were to escort fuel distribution trucks in the Island, directing the traffic in the intersections, preventive vigilance in gas stations and banks, arrests for violations to the curfew and the looting of the businesses. The police worked twelve-hour shifts, without even knowing of their families and the damages caused to their properties.

On the other hand, in emergencies or disasters, as the one experienced in Puerto Rico, after the passing of hurricanes Irma and with greater intensity Maria, it is necessary to have a Peace Officers Corps composed by officers of federal public order that can provide support to the state forces of public order. This with the objective of effectively handling the multiplicity of safety matters that are generated in emergency or disaster situations. So, our public order agents would have the support and backup of other officers of law and order.

It is for this reason that it is imperative that this Legislative Assembly clearly establishes who are the public order agents in our country, who would be authorized to execute in unison and together, so they can actively collaborate during an emergency or disaster. Also, to be able to establish an intervention protocol in the emergencies or disaster management and that in the event of an emergency the Governor can activate the agents of public order, as established in this legislation, to protect the citizens of Puerto Rico. This with the purpose of helping better handle future emergencies and disasters. It is necessary to apply a unified and coordinated focus to handle emergency incidents, not only during but after them. The acting protocols are created in order to not improvise in emergencies, as these are more specific than emergency plans. The development of the handling of a disaster must obey a preestablished order that the levels of coordination and operation are articulated operatively.

THE LEGISLATIVE ASSEMBLY OF PUERTO RICO DECREES:

Article 1.-Title.

We hereby adopt the “Act to Unify the Duties of the Public Order Agents in Puerto Rico in the event of a Declaration of Emergency or Disaster.”

Article 2. Declaration of Public Policy.

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The Legislative Assembly considers it urgent that the agents of public order in Puerto Rico are unified for purposes of establishing a protocol for the coordinated execution of their duties and be able to know their powers and legal authority. Also, it is imperative to establish the powers and faculties of the agents of public order activated during a declaration of emergency or disaster.

The implementation of an uniform protocol and process, to activate and establish the duties of the public order agents in cases of emergency or disaster, will achieve coordinated, sensible and effective actions to protect the citizens and avoid a chaos in future catastrophic events in our country.

Article 3.-Definitions.

For purposes of this Act, the following terms and phrases will have the meaning stated as follows:

- (A) Agency-Means any department, office, bureau, commission, board, administration, authority, public corporation, including its affiliates and subsidiaries or any other organism or entity of the Executive Branch.
- (B) Declaration of Emergency or Disaster-An official declaration made by the Governor of Puerto Rico decreeing an emergency or disaster.
- (C) Disaster-Means the occurrence of an event that results in damages to the property, death and/or grave bodily injuries to persons in one or more communities.
- (D) Emergency-Means any situation or circumstance for which the state, municipal or federal efforts directed towards saving lives and protect properties, protect life and public safety or to minimize or avoid the risk of an occurrence of a disaster in any part of Puerto Rico are necessary.
- (E) Secretary-Is the Secretary of the Department of Public Safety of Puerto Rico, in accordance with what is defined by Act 20-2017, as amended, known as the “Act of the Department of Public Safety of Puerto Rico”.

Article 4.-Agent of Public Order.

Every official member under the jurisdiction of the Government of Puerto Rico, whose duties imposed by Law include preventing, detecting, investigating, and making arrests of persons suspected of having committed a crime shall be considered a Public Order Agent. Members of, but not limited to, are included:

- A) Body of Watchmen of the Department of Natural and Environmental Resources;
- B) Police Bureau of Puerto Rico;
- C) Assistant Policemen;
- D) Municipal Police;
- E) Investigation Agents of the Special Bureau of Investigations;
- F) Custody Officers and Investigations Agents of the Department of Correction and Rehabilitation;

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- G) Internal Security Body of the Ports Authority;
- H) Director of the Division for the Control of Drugs and Narcotics;
- I) Inspectors of Controlled Substances of the Health Department;
- J) Investigation Agents of the Justice Department;
- K) Special Fiscal Agents, agents, and internal revenue inspectors of the Treasury Department;
- L) Inspectors of the Bureau of Public Transportation

Article 5-Duties of the Public Order Agents.

The public order agents will have the same duties, faculties and duties imposed by the organic laws that protect them. The agencies will have those duties listed in their organic law, in this Act, those assigned in a Reorganization Plan approved by the Legislative Assembly pursuant to the provisions of this Law or in subsequent laws approved for those purposes.

Each agency that has employees which are agents of public order as established in this Act, will be obligated to comply with the trainings provided for them so they know their duties when a declaration of emergency or disaster is issued. Also, they will have the duties that are established by regulation to promulgate pursuant to this Act. The duties described in this Article and the ones incorporated by regulation, shall be interpreted as part of the inherent duties of the public order agents, regarding enforcing compliance with the laws and maintaining public order.

Article 6.-Duties granted to the Public Order Agents

After a declaration of emergency or disaster and once activated by the Governor, the public order agents that meet the requirements in accordance with this Act, will have the following duties:

- a) Enforce the laws of Puerto Rico and the executive orders issued during a declaration of emergency or disaster;
- b) Investigate the commission of a crime;
- c) Report;
- d) Arrest;
- e) Execute the orders of the courts; and
- f) Possess and bear firearms.

Article 7-Training.

The Secretary or personnel he/she delegates on will prepare a program so that the Agents of Public Order, as defined in Article 4 of this Law, are trained in the following matters:

- (a) Roles and Duties of the Public Order Agents activated;
- (b) Vehicular intervention;
- (c) Development of leadership in emergency situations;
- (d) Arms Act;

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- (e) Vehicles and Transit Act;
- (f) Use of Force and Civil Rights;
- (g) Any other matter that the Secretary deems necessary.

To comply with what is ordered in this Article, each Agency is authorized to establish collaborative agreements with other agencies and/or with the entities that are necessary.

Article 8.-Activation of Public Order Agents.

In the cases that it is necessary for the protection of human life or property of the citizens during a declaration of emergency or disaster, the Governor may activate the number of public order agents he/she deems necessary, as long as they have completed a training of the constitutional and legal precepts applicable pursuant to the legal system of Puerto Rico, offered by the Public Safety Training and Development Center, created pursuant to Act 20-2017, as amended. Provided that such training shall be according to what is provided in Article 7 of this Act. The Governor in accordance to the powers of his position and those granted by this Act may exclude from the activation any of the Public Order Agents, listed in Article 4 herein, because he/she deems that it is not pertinent to include them due to the particular circumstances of the declaration of emergency or disaster, or because the originating agency so requests it.

Article 9.-Peace Officers.

Once the emergency or disaster is declared, the Governor may request the assistance of the Federal Government and may establish a Peace Officers Corps, to provide support to the state security and public order forces. This Peace Officers Corps will begin its duties if the assistance is approved by the Federal Government, and if established by the Governor, by Executive Order to that effect. Such Corps shall be composed by officers of federal public order that have the faculty in law to make arrests and that carrying out their duties, until there is an Executive Order to the contrary. They would act with full authority and faculty in law to make arrests and carry out all the duties of their positions due to infractions to state laws. This, under the same terms and faculties granted to the state Agents of Public Order. The foregoing shall be subject to the provisions of Act No. 20-1995, as amended.

Article 10.-Regulation to Unify the Duties of the Agents of Public Order upon a Declaration of Emergency or Disaster.

The Secretary, in coordination with the agency heads, shall create a regulation which will list the faculties, define the duties, and establish a protocol for the execution of their duties, in a coordinated and unified way. This, after the compliance of what is provided in Article 6 of this Act, about the activation of agents of public order in cases of declaration of emergency or disaster. The Secretary and the agency heads will consult and request authorization to the Federal Government about the inclusion in the regulation of those Agents of Public Order that by virtue of their duties exclusively work in duties delegated by federal provisions for which federal funds are received with the purpose of executing them. If such authorization is not

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given in the period provided in this Article for the promulgation of the regulation, they will be exempted from the application of this Act. Also, the present regulation must contemplate the integration once the Peace Officers Corps is established, to executed what is provided in Article 9 of this Act. The Secretary in coordination with the agency heads composed by the public order agents that are included in this Act, will have one hundred eighty (180) days after its approval, to comply with what is established in the provisions of this Act. In addition, each Agency is authorized to promulgate or amend their regulations pursuant to this law.

Article 11-Severability Clause.

If any provision of this Act were declared unconstitutional or null, by a Court with jurisdiction, the judgment entered to that effect will not affect, be prejudicial, or invalidate the rest of this Act. The effect of such judgment shall be limited to the paragraph, subsection, or article of it that has been declared unconstitutional.

Article 12.-Supremacy Clause and effect over other Laws.

This Act will not alter or modify neither Act 20-1995, as amended, or Act 20-2017, as amended. Except for the laws stated before, upon any inconsistency between other law or regulation in effect, and the provisions included in this Act, the supremacy of this Act prevails.

Article 13.-Effective Date.

This Act will begin to be in effect immediately upon its approval.

[signed]
President of the Senate

[signed]
President of the House

Approved on 30/10/20
[signed]
Governor

This P of S No. 923
Was received by the Governor
Today October 9, 2020
At 3:30
Signed
Counselor

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